

AMENDED IN SENATE JULY 2, 2003

AMENDED IN SENATE JUNE 19, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

AMENDED IN ASSEMBLY APRIL 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL**No. 1348**

Introduced by Assembly Member Lowenthal

February 21, 2003

An act to amend Sections 25200.19, 25250.1, and 25250.7 of, and to add ~~Section~~ *Sections 25160.4 and 25160.6* to, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1348, as amended, Lowenthal. Hazardous waste.

(1) Existing law requires any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest prior to the time the waste is transported or offered for transportation and to submit the manifest to the Department of Toxic Substances Control. A violation of the hazardous waste control laws is a crime.

This bill would require, *on and after January 1, 2005*, an offsite *hazardous waste* facility operator that rejects an entire shipment or partial shipment of hazardous waste ~~to either return the waste to the~~

~~generator, or direct the waste to an approved alternate designated, after signing the manifest, to prepare a new manifest pursuant to a specified procedure, subject to more stringent requirements or preemption under the federal Resource Conservation and Recovery Act of 1976 (RCRA).~~

The bill would require, if a hazardous waste shipment is rejected before the original manifest is signed by the facility operator, the original manifest to be used to transport the rejected load. The bill would require a transporter, after a shipment is rejected, to transport the hazardous waste to either the generator or a facility designated by the generator.

The bill would provide that a facility operator that rejects an entire shipment or partial shipment of hazardous waste is not the generator, arranger for disposal, nor a transporter, as specified, of that hazardous waste. The bill would provide that the facility operator is the offeror, as defined, of the rejected hazardous waste. The bill would specify accumulation limits on the generator of hazardous waste who receives a rejected shipment. The bill would provide that a transporter of hazardous waste that consolidates shipments of waste, and whose consolidated shipment is rejected by a hazardous waste facility, may hold that shipment, as specified.

The bill would require a generator or transporter to instead comply, as specified, with federal regulations, if the United States Environmental Protection Agency adopts regulations pursuant to ~~the Resource Conservation and Recovery Act of 1976 (RCRA)~~ RCRA that preempt, or are more stringent than, state regulation.

Since a violation of these requirements would be a crime pursuant to other provisions of law, the bill would impose a state-mandated local program by creating new crimes.

(2) Existing law allows a hazardous waste facility that meets specified conditions to conduct bulk, packaged, or containerized unloading and loading operations, as defined, pursuant to specified criteria, including that the loading or unloading be conducted within secondary containment that meets the requirements of any regulations adopted by the department for bulk transfers.

This bill would *require that the loading or unloading of bulk hazardous waste be conducted with a containment device or system capable of collecting and containing leaks and spills until the leaked or spilled material is removed and would authorize the department to establish specific secondary containment standards for bulk transfer areas that allow the practical use of trucks and railcars and require*

~~secondary containment capable of collecting and containing leaks and spills that occur during loading and unloading.~~

(3) Existing law defines “used oil” for purposes of the provisions regulating the handling of used oil and defines recycled oil as meeting specified purity standards, including total PCBs of 2 mg/kg or less and prohibits any person who generates, stores, or transfers used oil from intentionally contaminating used oil with other hazardous waste, except as specified. Existing law allows a used oil recycling facility to mix used oil with a contaminated petroleum product or with an oily waste, other than wastes listed as hazardous under specified federal law, under certain conditions. A violation of the laws regulating used oil is a crime.

This bill would allow a used oil transfer or recycling facility to mix used oil with a contaminated petroleum product or with an oily waste other than wastes listed as hazardous if the facility is authorized by the Department of Toxic Substances Control pursuant to a hazardous waste facilities permit, standardized permit, or other grant of authorization from the department and would additionally require the mixing of the used oil to be specifically authorized in the permit. The bill also would revise the definition of “used oil” to include material subject to regulation as used oil under federal regulations. The bill would revise the purity standard for recycled oil to be less than 2 mg/kg of PCBs. Since a violation of the bill’s requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 25160.4 is added to the Health and*
2 *Safety Code, to read:*

3 25160.4. (a) *On and after January 1, 2005, and except as*
4 *provided in subdivision (b), if an offsite hazardous waste facility*
5 *operator either rejects a partial shipment of hazardous waste, or*
6 *rejects an entire shipment of hazardous waste after signing the*

1 *manifest accompanying the shipment, the facility operator shall*
2 *prepare a new manifest to accompany the rejected hazardous*
3 *waste when it is returned to the generator or shipped to an*
4 *alternate facility designated by the generator.*

5 *(b) To the extent that the United States Environmental*
6 *Protection Agency adopts regulations under the federal act that*
7 *preempt or are more stringent than the requirements of this section,*
8 *an offsite hazardous waste facility, generator, and transporter*
9 *shall instead comply with those regulations on and after the date*
10 *those federal regulations become effective in California, or on and*
11 *after the effective date of regulations adopted by the department*
12 *in accordance with those federal regulations, whichever date*
13 *occurs first.*

14 SEC. 2. Section 25160.6 is added to the Health and Safety
15 Code, to read:

16 ~~25160.6. (a) An offsite hazardous waste facility operator that~~
17 ~~rejects a partial shipment or an entire shipment of hazardous waste~~
18 ~~shall either return the waste to the generator or direct the waste to~~
19 ~~an approved alternate designated facility designated by the~~
20 ~~generator.~~

21 25160.6. (a) (1) *If a hazardous waste shipment is rejected in*
22 *its entirety before the original manifest is signed by an offsite*
23 *hazardous waste facility operator, the original manifest shall be*
24 *used to transport the rejected load to either the generator or an*
25 *alternate facility designated by the generator.*

26 (2) *An offsite hazardous waste facility operator is not required*
27 *to sign a manifest pursuant to this subdivision until the hazardous*
28 *waste listed on the manifest is fully unloaded at the facility. If the*
29 *transporter leaves a loaded or partially loaded trailer at the*
30 *facility, the facility operator shall sign the manifest before the*
31 *transporter departs the facility.*

32 (3) *The hazardous waste facility operator shall, when*
33 *preparing a manifest to accompany a rejected load of hazardous*
34 *waste, enter the number of the original manifest in Box 19 on the*
35 *new manifest, and the facility operator shall enter the number of*
36 *the new manifest in Box 19 on those copies of the original manifest*
37 *still in the facility operator's possession. The facility operator*
38 *shall enter this information elsewhere on the manifest if required*
39 *by regulations adopted by the department. The facility operator*
40 *shall also use Box 19 on the new manifest, or any other box that*

1 *is required by the department's regulations, to identify the*
2 *shipment as a rejected load.*

3 (4) *After an offsite hazardous waste facility operator rejects a*
4 *shipment of hazardous waste, the transporter shall transport the*
5 *hazardous waste, accompanied by the original manifest or a new*
6 *manifest, to either the generator or an alternate facility designated*
7 *by the generator. The transporter shall obtain a signature on the*
8 *manifest from the operator of the alternate designated facility or*
9 *the generator, whichever receives the rejected shipment.*

10 (b) For purposes of receiving hazardous waste rejected by an
11 offsite hazardous waste facility operator, the generator of the
12 hazardous waste shall be considered a designated facility for the
13 receipt of hazardous waste generated by that generator. For
14 purposes of this section, "designated facility" has the same
15 meaning as that term is defined in Section 66260.10 of Title 22 of
16 the California Code of Regulations, including any amendments
17 thereto.

18 (c) (1) An offsite hazardous waste facility operator that rejects
19 an entire shipment or a partial shipment of hazardous waste
20 pursuant to this section is:

21 ~~(1) Not~~ *is not* the generator of that hazardous waste for
22 purposes of this chapter, including any regulations adopted
23 pursuant to this chapter, nor an arranger for disposal of the waste,
24 nor a transporter who chooses the location for disposal of waste.

25 ~~(2) The offeror of the rejected hazardous waste. For purposes~~
26 (2) (A) *An offsite hazardous waste facility operator that rejects*
27 *an entire shipment or a partial shipment of hazardous waste*
28 *pursuant to this section is the offeror of the rejected hazardous*
29 *waste.*

30 (B) *For purposes of this chapter and regulations adopted*
31 *pursuant to this chapter, "offeror" means a person who ships*
32 *hazardous waste and is responsible for ensuring that the hazardous*
33 *waste is properly prepared for shipment but who is not an arranger*
34 *for disposal or a transporter who chooses the location for disposal*
35 *of the waste.*

36 (3) *An offsite hazardous waste facility operator that rejects an*
37 *entire shipment or a partial shipment of hazardous waste pursuant*
38 *to this section shall comply with the department's regulations*
39 *concerning manifest use, container condition and management,*

1 *and container packaging, labeling, marking, and placarding with*
2 *respect to the rejected hazardous waste.*

3 (d) Except as provided in subdivision (e), the generator of
4 hazardous waste who receives a rejected shipment of that
5 hazardous waste may accumulate the rejected hazardous waste
6 onsite for 90 days or less, in accordance with the requirements of
7 paragraph (1) of subdivision (a) of Section 66262.34 of Title 22 of
8 the California Code of Regulations. The generator of the rejected
9 hazardous waste shall label or mark the hazardous waste in a
10 manner that indicates that it is rejected hazardous waste and shall
11 include the date it was received by the generator. If the generator
12 of the rejected hazardous waste commingles it with other
13 hazardous wastes, the shorter of any applicable accumulation time
14 limits shall apply to the commingled hazardous waste.

15 (e) A transporter of hazardous waste, that consolidates
16 shipments of waste pursuant to Section 25160.2 and whose
17 consolidated shipment is rejected by an offsite hazardous waste
18 facility, may hold that shipment on the transport vehicle at the
19 transporter's facility for no more than 10 days from the date the
20 shipment is rejected. The transporter may not commingle the
21 consolidated shipment with any other waste.

22 (f) A generator of hazardous waste who receives a shipment of
23 rejected waste shall comply with the requirements of Section
24 66265.71 and 66265.72 of Title 22 of the California Code of
25 Regulations.

26 (g) To the extent that the United States Environmental
27 Protection Agency adopts regulations under the federal act that
28 preempt or are more stringent than the requirements of this section,
29 offsite hazardous waste facilities, generators, and transporters
30 shall instead comply with those regulations on and after the date
31 those federal regulations become effective in California, or on and
32 after the effective date of regulations adopted by the department
33 in accordance with those federal regulations, whichever date
34 occurs first.

35 ~~SEC. 2.—~~

36 *SEC. 3.* Section 25200.19 of the Health and Safety Code is
37 amended to read:

38 25200.19. (a) A hazardous waste facility that obtains a
39 hazardous waste facilities permit to receive hazardous wastes from
40 offsite locations may conduct bulk, packaged, or containerized

hazardous waste unloading operations in accordance with the requirements of this section, except to the extent that the facility is subject to conditions and limitations in the permit concerning the receipt and unloading of hazardous wastes from offsite locations.

(b) A hazardous waste facility that has a hazardous waste facilities permit may conduct bulk, packaged, or containerized hazardous waste loading operations in accordance with the requirements of this section, except to the extent that the facility is subject to conditions and limitations in the permit concerning the shipment and loading for shipment of hazardous wastes to offsite locations.

(c) Unloading and loading operations subject to subdivisions (a) and (b) shall be conducted in accordance with all of the following requirements, unless otherwise specified in the hazardous waste facilities permit:

(1) As part of a loading or unloading operation conducted within the boundary of a hazardous waste facility, the hazardous waste shall not be held longer than 10 days outside of an authorized unit at the facility. The hazardous waste shall be moved directly between the authorized unit and the transport vehicle and shall not be held for any time off the transport vehicle outside of the authorized unit, except for that incidental period of time that is necessary to safely and effectively move the waste from the transport vehicle to the authorized unit or from the authorized unit to the transport vehicle.

(2) All loading and unloading operations shall be conducted within the boundary of the hazardous waste facility.

(3) There shall be adequate capacity within an authorized unit at the hazardous waste facility for all hazardous waste being loaded or unloaded in accordance with this section. Hazardous waste may not be held on any transport vehicle which, if unloaded, would exceed the permitted capacity of the originating or receiving unit at the hazardous waste facility, unless the waste is held on the transport vehicle as part of an authorized transfer operation.

(4) (A) The loading or unloading of bulk hazardous waste ~~shall be conducted with secondary containment within the hazardous waste facility, unless otherwise approved by the~~ *shall be conducted within the hazardous waste facility with a containment device or other system capable of collecting and containing leaks and spills that may reasonably be anticipated to*

1 occur during loading and unloading operations until the leaked or
2 spilled material is removed, unless otherwise approved by the
3 department in a regulation or permit.

4 (B) The department may establish specific secondary
5 containment regulations ~~for to effectuate the~~ bulk transfer areas for
6 purposes of subparagraph (A). In addition to, or in lieu of, these
7 regulations, the department may specify secondary containment
8 requirements for bulk transfer areas in individual facility permits.
9 Those regulations and permit conditions ~~shall meet both of the~~
10 ~~following conditions:~~

11 ~~(i) Provide for secondary containment that is designed to allow~~
12 ~~conditions shall be designed to allow~~ the practical use of trucks and
13 railcars. The standards may include the use of movable
14 containment devices or other systems meeting this criteria.

15 ~~(ii) Require secondary containment that is capable of collecting~~
16 ~~and containing leaks and spills that may occur during loading and~~
17 ~~unloading operations until the leaked or spilled material is~~
18 ~~removed.~~

19 (d) For purposes of this section, the following definitions
20 apply:

21 (1) “Loading” means activities associated with removing
22 packaged or containerized hazardous waste from an authorized
23 unit or removing bulk hazardous waste from an authorized
24 container, tank, or unit within a permitted hazardous waste facility,
25 placing it on a transport vehicle within the facility, and shipping
26 the waste offsite to another location in accordance with this
27 chapter.

28 (2) “Transport vehicle” means a device, including a trailer, to
29 propel, move or draw hazardous wastes by air, rail, highway, or
30 water that is operated pursuant to the requirements of this chapter.

31 (3) “Unloading” means activities associated with the receipt of
32 bulk, packaged, or containerized hazardous waste at a permitted
33 hazardous waste facility from an offsite location, by means of a
34 transport vehicle, and placing that packaged or containerized
35 hazardous waste into an authorized unit or placing that bulk
36 hazardous waste into an authorized container, tank, or unit within
37 the facility in accordance with this chapter.

38 (e) The requirements of this section do not apply to hazardous
39 waste being held or transferred pursuant to subparagraph (B) of
40 paragraph (6) of subdivision (b) of Section 25123.3.

~~SEC. 3.—~~

SEC. 4. Section 25250.1 of the Health and Safety Code is amended to read:

25250.1. (a) As used in this article, the following terms have the following meaning:

(1) (A) “Used oil” means all of the following:

(i) Oil that has been refined from crude oil, or any synthetic oil, that has been used, and, as a result of use or as a consequence of extended storage, or spillage, has been contaminated with physical or chemical impurities.

(ii) Material that is subject to regulation as used oil under Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

(B) Examples of used oil are spent lubricating fluids that have been removed from an engine crankcase, transmission, gearbox, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine; industrial oils, including compressor, turbine, and bearing oil; hydraulic oil; metal-working oil; refrigeration oil; and railroad drainings.

(C) “Used oil” does not include any of the following:

(i) Oil that has a flashpoint below 100 degrees Fahrenheit or that has been mixed with hazardous waste, other than minimal amounts of vehicle fuel.

(ii) (I) Wastewater, the discharge of which is subject to regulation under either Section 307(b) (33 U.S.C. Sec. 1317(b)) or 402 (33 U.S.C. Sec. 1342) of the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), including wastewaters at facilities that have eliminated the discharge of wastewater, contaminated with de minimis quantities of used oil.

(II) For purposes of this clause, “de minimis quantities of used oil” are small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations, or small amounts of oil lost to the wastewater treatment system during washing or draining operations.

(III) This exception does not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases or to used oil recovered from wastewaters.

1 (iii) Used oil re-refining distillation bottoms that are used as
2 feedstock to manufacture asphalt products.

3 (iv) Oil that contains polychlorinated biphenyls (PCBs) at a
4 concentration of 5 ppm or greater.

5 (v) (I) Oil containing more than 1000 ppm total halogens,
6 which shall be presumed to be a hazardous waste because it has
7 been mixed with halogenated hazardous waste listed in Subpart D
8 (commencing with Section 261.30) of Part 261 of Title 40 of the
9 Code of Federal Regulations.

10 (II) A person may rebut the presumption specified in subclause
11 (I) by demonstrating that the used oil does not contain hazardous
12 waste, including, but not limited to, in the manner specified in
13 subclause (III).

14 (III) The presumption specified in subclause (I) is rebutted if
15 it is demonstrated that the used oil that is the source of total
16 halogens at a concentration of more than 1000 ppm is solely either
17 household waste, as defined in Section 261.4(b)(1) of Title 40 of
18 the Code of Federal Regulations, or is collected from conditionally
19 exempt small quantity generators, as defined in Section 261.5 of
20 Title 40 of the Code of Federal Regulations. Nothing in this
21 subclause authorizes any person to violate the prohibition
22 specified in Section 25250.7.

23 (2) “Board” means the California Integrated Waste
24 Management Board.

25 (3) (A) “Recycled oil” means any oil that meets all of the
26 following requirements specified in clauses (i) to (iii), inclusive:

27 (i) Is produced either solely from used oil, or is produced solely
28 from used oil that has been mixed with one or more contaminated
29 petroleum products or oily wastes, other than wastes listed as
30 hazardous under the federal act, provided that if the resultant
31 mixture is subject to regulation as a hazardous waste under Section
32 279.10(b)(2) of Title 40 of the Code of Federal Regulations, the
33 mixture is managed as a hazardous waste in accordance with all
34 applicable hazardous waste regulations, and the recycled oil
35 produced from the mixture is not subject to regulation as a
36 hazardous waste under Section 279.10(b)(2) of Title 40 of the
37 Code of Federal Regulations. If the oily wastes with which the
38 used oil is mixed were recovered from a unit treating hazardous
39 wastes that are not oily wastes, these recovered oily wastes are not

1 excluded from being considered as oily wastes for purposes of this
2 section or Section 25250.7.

3 (ii) The recycled oil meets one of the following requirements:

4 (I) The recycled oil is produced by a generator lawfully
5 recycling its oil.

6 (II) The recycled oil is produced at a used oil recycling facility
7 that is authorized to operate pursuant to Section 25200 or 25200.5
8 solely by means of one or more processes specifically authorized
9 by the department. The department may not authorize a used oil
10 recycling facility to use a process in which used oil is mixed with
11 one or more contaminated petroleum products or oily wastes
12 unless the department determines that the process to be authorized
13 for mixing used oil with those products or wastes will not
14 substantially contribute to the achievement of compliance with the
15 specifications of subparagraph (B).

16 (III) The recycled oil is produced in another state, and the used
17 oil recycling facility where the recycled oil is produced, and the
18 process by which the recycled oil is produced, are authorized by
19 the agency authorized to implement the federal act in that state.

20 (iii) Has been prepared for reuse and meets all of the following
21 standards:

22 (I) The oil meets the standards of purity set forth in
23 subparagraph (B).

24 (II) If the oil was produced by a generator lawfully recycling
25 its oil or the oil is lawfully produced in another state, the oil is not
26 hazardous pursuant to the criteria adopted by the department
27 pursuant to Section 25141 for any characteristic or constituent
28 other than those listed in subparagraph (B).

29 (III) The oil is not mixed with any waste listed as a hazardous
30 waste in Part 261 (commencing with Section 261.1) of Title 40 of
31 the Code of Federal Regulations.

32 (IV) The oil is not subject to regulation as a hazardous waste
33 under the federal act.

34 (V) If the oil was produced lawfully at a used oil recycling
35 facility in this state, the oil is not hazardous pursuant to any
36 characteristic or constituent for which the department has made the
37 finding required by subparagraph (B) of paragraph (2) of
38 subdivision (a) of Section 25250.19, except for one of the
39 characteristics or constituents identified in the standards of purity
40 set forth in subparagraph (B).

(B) The following standards of purity are in effect for recycled oil, in liquid form, unless the department, by regulation, establishes more stringent standards:

(i) Flashpoint: minimum standards set by the American Society for Testing and Materials for the recycled products. However, recycled oil to be burned for energy recovery shall have a minimum flashpoint of 100 degrees Fahrenheit.

(ii) Total lead: 50 mg/kg or less.

(iii) Total arsenic: 5 mg/kg or less.

(iv) Total chromium: 10 mg/kg or less.

(v) Total cadmium: 2 mg/kg or less.

(vi) Total halogens: 3000 mg/kg or less. However, recycled oil shall be demonstrated by testing to contain not more than 1000 mg/kg total halogens listed in Appendix VIII of Part 261 (commencing with Section 261.1) of Title 40 of the Code of Federal Regulations.

(vii) Total polychlorinated biphenyls (PCBs): less than 2 mg/kg.

(C) Compliance with the specifications of subparagraph (B) or with the requirements of clauses (iv) and (v) of subparagraph (B) of paragraph (1) shall not be met by blending or diluting used oil with crude or virgin oil, or with a contaminated petroleum product or oily waste, except as provided in subclause (II) of clause (ii) of subparagraph (A), and shall be determined in accordance with the procedures for identification and listing of hazardous waste adopted in regulations by the department. Persons authorized by the department to recycle oil shall maintain records of volumes and characteristics of incoming used oil and outgoing recycled oil and documentation concerning the recycling technology utilized to demonstrate to the satisfaction of the department or other enforcement agencies that the recycling has been achieved in compliance with this subdivision.

(D) This paragraph does not apply to oil that is to be disposed of or used in a manner constituting disposal.

(4) “Used oil recycling facility” means a facility that reprocesses or re-refines used oil.

(5) “Used oil storage facility” means a storage facility, as defined in subdivision (b) of Section 25123.3, that stores used oil.

(6) “Used oil transfer facility” means a transfer facility, as defined in subdivision (a) of Section 25123.3, that either stores

1 used oil for periods greater than six days, or greater than 10 days
2 for transfer facilities in areas zoned industrial by the local planning
3 agency, or that transfers used oil from one container to another.

4 (7) (A) For purposes of this section and Section 25250.7 only,
5 “contaminated petroleum product” means a product that meets all
6 of the following conditions:

7 (i) It is a hydrocarbon product whose original intended purpose
8 was to be used as a fuel, lubricant, or solvent.

9 (ii) It has not been used for its original intended purpose.

10 (iii) It is not listed in Subpart D of Part 261 (commencing with
11 Section 261.1) of Title 40 of the Code of Federal Regulations.

12 (iv) It has not been mixed with a hazardous waste other than
13 another contaminated petroleum product.

14 (B) Nothing in this section or Section 25250.7 shall be
15 construed to affect the exemptions in Section 25250.3, or to
16 subject contaminated petroleum products that are not hazardous
17 waste to any requirements of this chapter.

18 (b) Unless otherwise specified, used oil that meets either of the
19 following conditions is not subject to regulation by the
20 department:

21 (1) The used oil has not been treated by the generator of the
22 used oil, the generator claims the used oil is exempt from
23 regulation by the department, and the used oil meets all of the
24 following conditions:

25 (A) The used oil meets the standards set forth in subparagraph
26 (B) of paragraph (3) of subdivision (a).

27 (B) The used oil is not hazardous pursuant to the criteria
28 adopted by the department pursuant to Section 25141 for any
29 characteristic or constituent other than those listed in
30 subparagraph (B) of paragraph (3) of subdivision (a).

31 (C) The used oil is not mixed with any waste listed as a
32 hazardous waste in Part 261 (commencing with Section 261.1) of
33 Title 40 of the Code of Federal Regulations.

34 (D) The used oil is not subject to regulation as either hazardous
35 waste or used oil under the federal act.

36 (E) The generator of the used oil has complied with the
37 notification requirements of subdivision (c) and the testing and
38 recordkeeping requirements of Section 25250.19.

39 (F) The used oil is not disposed of or used in a manner
40 constituting disposal.

(2) The used oil meets all the requirements for recycled oil specified in paragraph (3) of subdivision (a), the requirements of subdivision (c), and the requirements of Section 25250.19.

(c) Used oil recycling facilities and generators lawfully recycling their own used oil that are the first to claim that recycled oil meets the requirements specified in paragraph (2) of subdivision (b) shall maintain an operating log and copies of certification forms, as specified in Section 25250.19. Any person who generates used oil, and who claims that the used oil is exempt from regulation pursuant to paragraph (1) of subdivision (b), shall notify the department, in writing, of that claim and shall comply with the testing and recordkeeping requirements of Section 25250.19 prior to its reuse. In any action to enforce this article, the burden is on the generator or recycling facility, whichever first claimed that the used oil or recycled oil meets the standards and criteria, and on the transporter or the user of the used oil or recycled oil, whichever has possession, to prove that the oil meets those standards and criteria.

(d) Used oil shall be managed in accordance with the requirements of this chapter and any additional applicable requirements of Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

~~SEC. 4.—~~

SEC. 5. Section 25250.7 of the Health and Safety Code is amended to read:

25250.7. (a) Except as provided in subdivision (b) or (c), no person who generates, stores, or transfers used oil shall intentionally contaminate used oil with other hazardous waste other than minimal amounts of vehicle fuel.

(b) A used oil transfer or recycling facility authorized by the department pursuant to Section 25200, 25200.5, or 25201.6 may mix used oil with a contaminated petroleum product or with an oily waste other than wastes listed as hazardous under the federal act, if all of the following conditions are met:

(1) If the resultant mixture is subject to regulation as a hazardous waste under paragraph (2) of subsection (b) of Section 279.10 of Title 40 of the Code of Federal Regulations, it is managed as a hazardous waste in accordance with all applicable hazardous waste regulations.

(2) The resultant mixture is used to produce recycled oil, as defined in paragraph (3) of subdivision (a) of Section 25250.1, at a used oil recycling facility solely by means of a process that has been specifically authorized by the department to treat these mixtures.

(3) The mixing of the used oil with a contaminated petroleum product *or an oily waste* is specifically authorized in the facility's permit.

(c) A generator or transporter may mix used oil with one or more contaminated petroleum products if the mixture is managed in accordance with Section 25143.2 or if all of the following conditions apply:

(1) If the resultant mixture is subject to regulation as a hazardous waste under paragraph (2) of subsection (b) of Section 279.10 of Title 40 of the Code of Federal Regulations, it is managed as a hazardous waste in accordance with all applicable hazardous waste regulations.

(2) (A) Except as provided in subparagraph (B), the resultant mixture is transported to a used oil recycling facility that issues a statement, in writing, to the generator or transporter that the mixture will be used to produce recycled oil, as defined in paragraph (3) of subdivision (a) of Section 25250.1, at a facility authorized to operate pursuant to Section 25200 or 25200.5 solely by means of a process that has been specifically authorized by the department to treat these mixtures.

(B) If the resultant mixture is transported to a used oil recycling facility located in another state, that facility is authorized by the agency authorized to implement the federal act in that state.

(3) The mixing is not conducted in a manner that violates subparagraph (C) of paragraph (3) of subdivision (a) of Section 25250.1.

(4) The transporter tests the halogen content of the used oil to demonstrate compliance with clause (vi) of subparagraph (B) of paragraph (3) of subdivision (a) of Section 25250.1 before mixing the used oil with the contaminated petroleum product.

~~SEC. 5.—~~

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

O

